

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1374

AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 27-7-3.7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 3.7. Escrow Transactions in Real Estate Transactions

Sec. 1. (a) As used in this chapter, "closing agent" means a person that:

- (1) closes an escrow transaction in connection with the purchase, sale, or financing of an interest in real estate; and
- (2) is required to be licensed as an insurance producer under IC 27-1-15.6.

(b) The term does not include a lender or an employee of a lender that conducts a settlement or closing of a real estate secured loan provided by the lender in the office of the lender.

Sec. 2. As used in this chapter, "escrow account" means a checking account established by a closing agent with a:

- (1) bank;
- (2) savings and loan association;
- (3) credit union; or
- (4) savings bank;

that is chartered under the laws of a state or the United States and used exclusively for the deposit and disbursement of funds for an

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escrow transaction.

Sec. 3. (a) As used in this chapter, "escrow transaction" means a transaction in which a person deposits with a closing agent funds that are to be held until:

- (1) a specified event occurs; or
- (2) the performance of a prescribed condition;

in connection with the purchase, sale, or financing of an interest in real estate.

(b) The term does not include a loan financing if:

- (1) the only parties to the loan transaction are the lender and the borrower; and
- (2) the lender is responsible for disbursing all of the funds to the borrower or to a third party in order to pay fees and charges associated with the loan transaction.

Sec. 4. As used in this chapter, "good funds" means funds in any of the following forms:

- (1) United States currency.
- (2) Wired funds unconditionally held by and irrevocably credited to the escrow account of the closing agent.
- (3) Certified or cashier's checks that are drawn on an existing account at a:
 - (A) bank;
 - (B) savings and loan association;
 - (C) credit union; or
 - (D) savings bank;

chartered under the laws of a state or the United States.

(4) A check drawn on the trust account of a real estate broker licensed under IC 25-34.1, if the closing agent has reasonable and prudent grounds to believe that sufficient funds will be available for withdrawal from the account on which the check is drawn at the time of disbursement of funds from the closing agent's escrow account.

(5) A personal check not to exceed five hundred dollars (\$500) per closing.

(6) A check issued by the state, the United States, or a political subdivision of the state or the United States.

(7) A check drawn on the escrow account of another closing agent, if the closing agent in the escrow transaction has reasonable and prudent grounds to believe that sufficient funds will be available for withdrawal from the account upon which the check is drawn at the time of disbursement of funds from the escrow account of the closing agent in the escrow

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transaction.

(8) A check issued by a farm credit service authorized under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.).

Sec. 5. (a) As used in this section, "real estate transaction" refers to any:

- (1) escrow transaction;
- (2) settlement; or
- (3) closing;

conducted in connection with the purchase, sale, or financing of an interest in real estate.

(b) The term does not include a real estate secured loan financing if:

- (1) the only parties to the loan transaction are the lender and the borrower; and
- (2) the lender is responsible for disbursing all of the funds to the borrower or to a third party in order to pay fees and charges associated with the loan transaction.

Sec. 6. Funds received in connection with an escrow transaction must be deposited in an escrow account unless the parties to the escrow transaction agree in writing to another arrangement.

Sec. 7. A closing agent may not make disbursements from an escrow account in connection with a real estate transaction unless any funds that:

- (1) are received from any single party to the real estate transaction; and
- (2) in the aggregate are at least ten thousand dollars (\$10,000);

are wired funds that are unconditionally held by and irrevocably credited to the escrow account of the closing agent.

Sec. 8. A closing agent may not make disbursements from an escrow account in connection with a real estate transaction unless any funds that:

- (1) are received from any single party to the real estate transaction; and
- (2) in the aggregate are less than ten thousand dollars (\$10,000);

are good funds.

Sec. 9. If:

- (1) the closing agent in a real estate transaction receives wired funds unconditionally held and irrevocably credited to the escrow account of the closing agent; and
- (2) a holder of a mortgage lien encumbering real estate so

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requests, as part of written closing instructions or a written payoff statement in advance of closing;
the holder of the mortgage lien is entitled to receive its proceeds from the real estate transaction through funds electronically transferred to an account specified by the holder of the mortgage lien.

Sec. 10. A closing agent may advance an amount not to exceed five hundred dollars (\$500) from an escrow account on behalf of a party to an escrow transaction for the purpose of paying incidental fees, including conveyance and recording fees. Incidental fees may be paid in order to:

- (1) effect and close the sale of;
- (2) purchase;
- (3) exchange;
- (4) transfer;
- (5) encumber; or
- (6) lease;

real property that is the subject of the escrow transaction.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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HEA 1374 — Concur+

